

AMENDED IN SENATE AUGUST 24, 2006

AMENDED IN SENATE AUGUST 7, 2006

AMENDED IN SENATE JUNE 22, 2006

AMENDED IN ASSEMBLY APRIL 6, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## ASSEMBLY BILL

**No. 2930**

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**Introduced by Assembly Member Laird**

February 24, 2006

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~~An act to amend Section 11005 of the Government Code, and to amend Sections 31402.1, 31402.2, and 31402.3 of the Public Resources Code, relating to coastal resources. An act to add Section 20037.10 to the Government Code, relating to state employees, and declaring the urgency thereof, to take effect immediately.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 2930, as amended, Laird. ~~Coastal resources: property dedications: conservation and open-space easements. State employees: memorandum of understanding: State Bargaining Unit 7.~~

*(1) Under existing law, a provision of a memorandum of understanding reached between the state employer and a recognized employee organization representing state civil service employees that requires the expenditure of funds does not become effective unless approved by the Legislature in the annual Budget Act.*

*This bill would approve provisions that require the expenditure of funds of a memorandum of understanding entered into between the state employer and State Bargaining Unit 7, the California Union of Safety Employees, and would provide that these provisions will*

*become effective even if these provisions are approved by the Legislature in legislation other than the annual Budget Act.*

*This bill would further provide that provisions of the memorandum of understanding approved by this bill that require the expenditure of funds will not take effect unless funds for these provisions are specifically appropriated by the Legislature, and would authorize the state employer and the affected employee organization to reopen negotiations on all or part of the memorandum if funds for those provisions are not specifically appropriated by the Legislature.*

*(2) The Public Employees' Retirement Law provides a comprehensive set of rights and benefits based upon age, service credit, and final compensation. Existing law defines final compensation variously for different member classifications and bargaining units and, in this regard, defines final compensation for a state member for the purpose of calculating retirement benefits as the highest annual average compensation earnable by the member during a designated 12-month period.*

*This bill would provide that final compensation for a person who becomes a state member, as specified, on or after January 1, 2007, and who is represented by State Bargaining Unit 7 means the highest annual average compensation earnable by the member during a designated 36-month period.*

*(3) This bill would declare that it is to take effect immediately as an urgency statute.*

~~Existing law requires that, unless the Legislature specifically provides that approval is not required, every gift or dedication to the state of personal property, or every gift to the state of real property in fee or in a lesser estate or interest, be approved by the Director of Finance, and every contract for the acquisition or hiring of real property in fee or in a lesser estate or interest, entered into by or on behalf of the state, be approved by the Director of General Services. However, existing law exempts from those requirements, among other things, the acceptance by the State Coastal Conservancy of offers to dedicate public accessways made pursuant to specified provisions of the California Coastal Act of 1976.~~

~~This bill would additionally exempt from those requirements the acceptance by the conservancy of a conservation easement or an open-space easement made pursuant to the act.~~

~~Existing law requires that the conservancy accept an outstanding offer to dedicate a public accessway, as described, that has not been~~

accepted by another public agency or nonprofit organization within 90 days of its expiration date.

~~This bill would also require the conservancy to accept an offer to dedicate a conservation easement, or an open-space easement that has not been accepted by another public agency or nonprofit organization within 90 days of the expiration date of the outstanding offer, as specified.~~

~~The bill would provide that the conservancy shall accept a dedication of, or offer to dedicate, a conservation easement or an open-space easement, unless the dedication document contains a provision that indemnifies the state or subsequent holder of the easement against claims of liability.~~

~~The bill would make related changes.~~

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     *SECTION 1. The Legislature finds and declares that the*
- 2     *purpose of this act is to approve an agreement pursuant to*
- 3     *Section 3517 of the Government Code entered into by the state*
- 4     *employer and State Bargaining Unit 7, California Union of*
- 5     *Safety Employees (CAUSE) on August 11, 2006, that requires the*
- 6     *expenditure of funds.*
- 7     *SEC. 2. The provisions of the memorandum of understanding*
- 8     *prepared pursuant to Section 3517.5 of the Government Code*
- 9     *and entered into by the state employer and State Bargaining Unit*
- 10    *7, California Union of Safety Employees (CAUSE), that require*
- 11    *the expenditure of funds, are hereby approved for the purposes of*
- 12    *Section 3517.6 of the Government Code.*
- 13    *SEC. 3. The provisions of the memorandum of understanding*
- 14    *approved by Section 2 of this act that are scheduled to take effect*
- 15    *on or after July 1, 2006, and that require the expenditure of*
- 16    *funds, shall not take effect unless funds for these provisions are*
- 17    *specifically appropriated by the Legislature. If the Legislature*
- 18    *does not approve or fully fund any provision of the memorandum*
- 19    *of understanding that requires the expenditure of funds, either*
- 20    *party may reopen negotiations on all or part of the memorandum*
- 21    *of understanding.*

1     *SEC. 4. Notwithstanding Section 3517.6 of the Government*  
2     *Code, the provisions of any memorandum of understanding*  
3     *included in Section 2 of this act that require the expenditure of*  
4     *funds shall become effective even if the provisions of the*  
5     *memorandum of understanding are approved by the Legislature*  
6     *in legislation other than the annual Budget Act.*

7     *SEC. 5. Section 20037.10 is added to the Government Code,*  
8     *to read:*

9     *20037.10. (a) Notwithstanding Sections 20035 and 20037,*  
10    *final compensation for a person who becomes a state member of*  
11    *the system on or after January 1, 2007, and is represented by*  
12    *State Bargaining Unit 7, means the highest average annual*  
13    *compensation earnable by the member during the consecutive*  
14    *36-month period immediately preceding the effective date of his*  
15    *or her retirement, or the date of his or her last separation from*  
16    *state service if earlier, or during any other period of 36*  
17    *consecutive months during his or her state membership that the*  
18    *member designates on the application for retirement.*

19    *(b) This section applies to service credit accrued while a*  
20    *member of State Bargaining Unit 7.*

21    *(c) This section does not apply to:*

22    *(1) Service credit accrued while classified as a state peace*  
23    *officer/firefighter while a member of Bargaining Unit 7.*

24    *(2) Former state employees previously employed before*  
25    *January 1, 2007, who return to state employment on or after*  
26    *January 1, 2007.*

27    *(3) State employees hired prior to January 1, 2007, who were*  
28    *subject to Section 20281.5 during the first 24 months of state*  
29    *employment.*

30    *(4) State employees hired prior to January 1, 2007, who*  
31    *become subject to representation by State Bargaining Unit 7 on*  
32    *or after January 1, 2007.*

33    *(5) State employees on an approved leave of absence*  
34    *employed before January 1, 2007, who return to active*  
35    *employment on or after January 1, 2007.*

36    *SEC. 6. This act is an urgency statute necessary for the*  
37    *immediate preservation of the public peace, health, or safety*  
38    *within the meaning of Article IV of the Constitution and shall go*  
39    *into immediate effect. The facts constituting the necessity are:*

1 *In order for the provisions of this act to be applicable as soon*  
2 *as possible in the 2006–07 fiscal year and thereby facilitate the*  
3 *orderly administration of state government at the earliest*  
4 *possible time; it is necessary that this act take effect immediately.*

5 SECTION 1. ~~Section 11005 of the Government Code is~~  
6 ~~amended to read:~~

7 ~~11005. (a) Unless the Legislature specifically provides that~~  
8 ~~approval is not required, every gift or dedication to the state of~~  
9 ~~personal property, or every gift to the state of real property in fee~~  
10 ~~or in a lesser estate or interest, shall be approved by the Director~~  
11 ~~of Finance, and every contract for the acquisition or hiring of real~~  
12 ~~property in fee or in a lesser estate or interest, entered into by or~~  
13 ~~on behalf of the state, shall be approved by the Director of~~  
14 ~~General Services. A contract entered into in violation of this~~  
15 ~~section is void. This section applies to a state agency that, by~~  
16 ~~general or specific statute, is expressly or impliedly authorized to~~  
17 ~~enter into transactions referred to in this section.~~

18 ~~(b) This section does not apply to the following:~~

19 ~~(1) An unconditional gift of money.~~

20 ~~(2) The acquisition or hiring by the Department of~~  
21 ~~Transportation of real property in fee or in any lesser estate or~~  
22 ~~interest for highway purposes, but does apply to the hiring by~~  
23 ~~that department of office space in any office building.~~

24 ~~(3) A contract entered into under the authority of Chapter 4~~  
25 ~~(commencing with Section 11770) of Part 3 of Division 2 of the~~  
26 ~~Insurance Code.~~

27 ~~(4) The receipt of donated, unencumbered personal property~~  
28 ~~from private sources received in conjunction with the~~  
29 ~~administration of the Federal Surplus Personal Property Program~~  
30 ~~by the Department of General Services.~~

31 ~~(5) The receipt of gifts of personal property in the form of~~  
32 ~~interpretive or historical objects, each valued at fifteen thousand~~  
33 ~~dollars (\$15,000) or less, by the Department of Parks and~~  
34 ~~Recreation.~~

35 ~~(6) The acceptance by the State Coastal Conservancy of an~~  
36 ~~offer to dedicate a public accessway, conservation easement, or~~  
37 ~~open-space easement made pursuant to Division 20 (commencing~~  
38 ~~with Section 30000) of the Public Resources Code.~~

39 SEC. 2. ~~Section 31402.1 of the Public Resources Code is~~  
40 ~~amended to read:~~

~~31402.1. (a) It is the intent of the Legislature to provide for timely acceptance of offers to dedicate interests in property, recorded pursuant to Division 20 (commencing with Section 30000) and needed to preserve open space or conservation areas or to provide public access to and along the ocean shoreline.~~

~~(b) The Legislature finds and declares all of the following:~~

~~(1) In order to prevent the potential loss of open space, conservation areas, or public accessways to and along the state's coastline, it is in the best interest of the state to accept all offers to dedicate real property that protect open space or conservation areas or have the potential to provide access to public tidelands, including any beach, shoreline, or view area, or that provide a connection to other easements or public properties providing this access.~~

~~(2) Offers to dedicate interests in property that are required and recorded pursuant to Division 20 (commencing with Section 30000) provide mitigation necessary for approved development to occur consistent with the policies and objectives of that division and are not gifts to the state or acquisitions of property interests within the meaning of Section 31105.~~

~~SEC. 3. Section 31402.2 of the Public Resources Code is amended to read:~~

~~31402.2. (a) The conservancy shall accept an offer to dedicate a conservation easement, an open-space easement, or a public accessway described in Section 31402.1, that has not been accepted by another public agency or nonprofit organization within 90 days of the expiration date of the outstanding offer, if the commission has provided notice and a copy of the offer to the conservancy at least 120 days prior to its expiration date.~~

~~(b) The conservancy shall not accept a dedication of, or offer to dedicate, a conservation easement or an open-space easement pursuant to Division 20 (commencing with Section 30000) unless the dedication document contains a provision that indemnifies the state or subsequent holder of the easement against claims of liability.~~

~~SEC. 4. Section 31402.3 of the Public Resources Code is amended to read:~~

~~31402.3. (a) To the extent that funds are available in the Coastal Access Account in the State Coastal Conservancy Fund, the conservancy shall open at least three public accessways each~~

1 year either directly or by awarding grants to public agencies or  
2 nonprofit organizations.

3 (b) ~~The conservancy may transfer a conservation easement, an~~  
4 ~~open-space easement, or a public accessway to an appropriate~~  
5 ~~public agency or nonprofit organization for development,~~  
6 ~~management, or public use, or may enter into agreements with~~  
7 ~~public agencies and nonprofit organizations for the development,~~  
8 ~~management, or public use of the easement or accessway.~~  
9 ~~Transfer under this section is not subject to approval by the~~  
10 ~~Department of General Services pursuant to Section 11005.2 of~~  
11 ~~the Government Code. The conservancy shall retain the right to~~  
12 ~~reclaim the easements or other interests in the event that the~~  
13 ~~public agency or nonprofit organization ceases to exist, is no~~  
14 ~~longer able to manage the easement or accessway, or violates the~~  
15 ~~terms of the agreement.~~

16 (c) ~~Before a nonprofit organization may accept an offer to~~  
17 ~~dedicate an interest in real property under Division 20~~  
18 ~~(commencing with Section 30000), the nonprofit organization~~  
19 ~~shall do all of the following:~~

20 (1) ~~Submit satisfactory proof to the executive director of the~~  
21 ~~commission that the nonprofit organization has been approved as~~  
22 ~~a tax exempt public benefit corporation under Section 501(c)(3)~~  
23 ~~of the Internal Revenue Code, and has filed a Form 990 with the~~  
24 ~~Internal Revenue Service.~~

25 (2) ~~Submit a management plan to the executive director of the~~  
26 ~~commission and the executive officer of the conservancy that~~  
27 ~~describes the nonprofit organization's planned management and~~  
28 ~~operation of the interest.~~

29 (3) ~~Grant a right of entry that permits the conservancy to~~  
30 ~~reclaim or assign the interest to another public agency or~~  
31 ~~nonprofit organization, if the conservancy and the commission~~  
32 ~~determine that the nonprofit organization is not managing or~~  
33 ~~operating the interest consistent with the management plan~~  
34 ~~developed pursuant to paragraph (2).~~

35 (d) ~~A public accessway accepted pursuant to Section 31402.2~~  
36 ~~may not be developed, improved, or formally opened for public~~  
37 ~~use until its transfer, development, or public use has been~~  
38 ~~authorized by the conservancy.~~

- 1     ~~(e) The conservancy may not use moneys appropriated from~~
- 2     ~~the General Fund for the purposes of this section.~~

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